

United States Patent Application

COMBINED DECLARATION AND POWER OF ATTORNEY

C O P Y

C O P Y

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

DEVICE AND METHOD FOR ANALYZING A SAMPLE

The specification of which

a. ☒ is attached hereto

b. ☐ was filed on _____ as application serial no. _____ and was amended on _____ (if applicable) (in the case of a PCT-filed application) described and claimed in international no. _____ filed _____ and as amended on _____ (if any), which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (see the last page attached hereto).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

a. ☒ no such applications have been filed.

b. ☐ such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)
Japan	8-107310	26 April 1996	
Japan	8-236131	6 September 1996	

ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)

I hereby appoint the following attorney(s) and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

Adriano, Sarah B.	Reg. No. 34,470	Fauver, Cole M.	Reg. No. 36,797	Mueller, Douglas P.	Reg. No. 30,300
Batzli, Brian H.	Reg. No. 32,960	Funk, Steven R.	Reg. No. 37,830	Nelson, Albin J.	Reg. No. 28,650
Beard, John L.	Reg. No. 27,612	Gabilan, Mary Susan	Reg. No. 38,729	Plunkett, Theodore	Reg. No. 37,259
Beck, Robert C.	Reg. No. 28,184	Gates, George H.	Reg. No. 33,500	Pollinger, Steven J.	Reg. No. 35,326
Bejin, Thomas E.	Reg. No. 37,089	Golla, Charles E.	Reg. No. 26,896	Reich, John C.	Reg. No. 37,703
Berman, Charles	Reg. No. 29,249	Gorman, Alan G.	Reg. No. 38,472	Reiland, Earl D.	Reg. No. 25,767
Bogucki, Raymond A.	Reg. No. 17,426	Gould, John D.	Reg. No. 18,223	Schmaltz, David G.	Reg. No. P-39,828
Bruss, Steven C.	Reg. No. 34,130	Gresens, John J.	Reg. No. 33,112	Schmidt, Cecil C.	Reg. No. 20,566
Byrne, Linda M.	Reg. No. 32,404	Hamre, Curtis B.	Reg. No. 29,165	Schumann, Mark D.	Reg. No. 31,197
Carlson, Alan G.	Reg. No. 25,959	Hassing, Thomas A.	Reg. No. 36,159	Schumann, Michael D.	Reg. No. 30,422
Carter, Charles G.	Reg. No. 35,093	Hillson, Randall A.	Reg. No. 31,838	Sebald, Gregory A.	Reg. No. 33,280
Caspers, Philip P.	Reg. No. 33,227	Hollingsworth, Mark A.	Reg. No. 38,491	Sharp, Janice A.	Reg. No. 34,051
Chiapetta, James R.	Reg. No. P-39,634	Johnston, Scott W.	Reg. No. P-39,721	Skoog, Mark T.	Reg. No. P-40,178
Clifford, John A.	Reg. No. 30,247	Kastelic, Joseph M.	Reg. No. 37,160	Smith, Jerome R.	Reg. No. 35,684
Conrad, Timothy R.	Reg. No. 30,164	Kettelberger, Denise	Reg. No. 33,924	Sorensen, Andrew D.	Reg. No. 33,606
Cooper, Victor G.	Reg. No. P-39,641	Kowalchuk, Alan W.	Reg. No. 31,535	Stinebruner, Scott A.	Reg. No. 38,323
Crawford, Robert	Reg. No. 32,122	Kowalchuk, Katherine M.	Reg. No. 36,848	Strawbridge, Douglas A.	Reg. No. 28,376
Daignault, Ronald A.	Reg. No. 25,968	Krull, Mark A.	Reg. No. 34,205	Strodthoff, Kristine M.	Reg. No. 34,259
Daley, Dennis R.	Reg. No. 34,994	Lacy, Paul A.	Reg. No. P-38,946	Summer, John P.	Reg. No. 29,114
Daulton, Julie R.	Reg. No. 36,414	Lasky, Michael B.	Reg. No. 29,555	Summers, John S.	Reg. No. 24,216
Davidson, Benjamin M.	Reg. No. 38,424	Lynch, David W.	Reg. No. 36,204	Tellekson, David K.	Reg. No. 32,314
Dempster, Shawn B.	Reg. No. 34,321	Mau, Michael L.	Reg. No. 30,087	Underhill, Albert L.	Reg. No. 27,403
DiPietro, Mark J.	Reg. No. 28,707	McCormack, Myra H.	Reg. No. 36,602	Vandenburgh, J. Derek	Reg. No. 32,179
Dryja, Michael A.	Reg. No. P-39,662	McDaniel, Karen D.	Reg. No. 37,674	Welter, Paul A.	Reg. No. 20,890
Edell, Robert T.	Reg. No. 20,187	McDonald, Daniel W.	Reg. No. 32,044	Williams, Douglas J.	Reg. No. 27,054
Epp Ryan, Sandra	Reg. No. P-39,667	McDonald, Wendy M.	Reg. No. 32,427	Wood, Gregory B.	Reg. No. 28,133
Farber, Michael B.	Reg. No. 32,612	Miller, William D.	Reg. No. 37,988	Xu, Min S.	Reg. No. 39,536

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney, firm/organization/who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Merchant & Gould to the contrary.

Please direct all correspondence in this case to Merchant, Gould, Smith, Edell, Welter & Schmidt at the address indicated below:

Merchant, Gould, Smith, Edell,
Welter & Schmidt
3100 Norwest Center
90 South Seventh Street
Minneapolis, MN 55402-4131

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2	Full Name Of Inventor	Family Name NAKA	First Given Name Michio	Second Given Name
0	Residence & Citizenship	City Kyoto	State or Foreign Country Japan	Country of Citizenship Japan
1	Post Office Address	Post Office Address 78-6, Tonohoriguchi, Joyo-shi, Kyoto 610-01, Japan		
2	Full Name Of Inventor	Family Name HIRAYAMA	First Given Name Kouji	Second Given Name
0	Residence & Citizenship	City Kyoto	State or Foreign Country Japan	Country of Citizenship Japan
2	Post Office Address	Post Office Address 518 Green Village Yoshida, 35 Tanakanomiya-cho, Takeda, Fushimi-ku, Kyoto-shi, Kyoto 612, Japan		
2	Full Name Of Inventor	Family Name HIGUCHI	First Given Name Yoshihiko	Second Given Name
0	Residence & Citizenship	City Osaka	State or Foreign Country Japan	Country of Citizenship Japan
3	Post Office Address	Post Office Address 2-12-12, Minamino, Shijonawate-shi, Osaka 575, Japan		

Signature of Inventor 201 <i>Michio Naka</i>		Signature of Inventor 202 <i>Kouji Hirayama</i>		Signature of Inventor 203 <i>Yoshihiko Higuchi</i>	
Date April 16, 1997		Date April 16, 1997		Date April 16, 1997	

For Additional Inventors:

Indicate here and attach sheet with same information, including date and signature.

204	Full Name Of Inventor	Family Name KOIKE	First Given Name Masufumi	Second Given Name
	Residence & Citizenship	City Osaka	State or Foreign Country Japan	Country of Citizenship Japan
	Post Office Address	Post Office Address 3-8-26, Tannan, Matsubara-shi, Osaka 580, Japan		
205	Full Name Of Inventor	Family Name OKUDA	First Given Name Hisashi	Second Given Name
	Residence & Citizenship	City Kyoto	State or Foreign Country Japan	Country of Citizenship Japan
	Post Office Address	Post Office Address 20-14, Shindenjima, Ogura-cho, Uji-shi, Kyoto 611, Japan		
206	Full Name Of Inventor	Family Name	First Given Name	Second Given Name
	Residence & Citizenship	City	State or Foreign Country	Country of Citizenship
	Post Office Address	Post Office Address		

207	Full Name Of Inventor	Family Name	First Given Name	Second Given Name
	Residence & Citizenship	City	State or Foreign Country	Country of Citizenship
	Post Office Address	Post Office Address		
208	Full Name Of Inventor	Family Name	First Given Name	Second Given Name
	Residence & Citizenship	City	State or Foreign Country	Country of Citizenship
	Post Office Address	Post Office Address		
209	Full Name Of Inventor	Family Name	First Given Name	Second Given Name
	Residence & Citizenship	City	State or Foreign Country	Country of Citizenship
	Post Office Address	Post Office Address		

Signature of Inventor 204 <i>Masufumi Koike</i>	Signature of Inventor 205 <i>Hisashi Okuda</i>	Signature of Inventor 206
Date April 16 1997	Date April 16, 1997	Date

Signature of Inventor 207	Signature of Inventor 208	Signature of Inventor 209
Date	Date	Date

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.